



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

DEC 29 2014

REPLY TO THE ATTENTION OF

(E-19J)

Phil Forst  
Environmental Specialist  
Federal Highway Administration  
380 Jackson Street, Suite 500  
St. Paul, Minnesota 55101-4802

**RE: FHWA/MnDOT Tier 1 Final Environmental Impact Statement, TH 41  
Minnesota River Crossing, From US Highway 169 to New US Highway 212,  
Scott County and Carver County, Minnesota (dated September 2014, FHWA  
issued November 12, 2014). (CEQ No.: 20140349)**

Dear Mr. Forst:

The United States Environmental Protection Agency Region 5 (EPA) reviewed the above referenced Tier 1 Final Environmental Impact Statement (Tier 1 FEIS). Our review and comments are provided pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA), Section 309 of the Clean Air Act, and Section 404 of the Clean Water Act (CWA).

The Minnesota Department of Transportation (MnDOT), in conjunction with the Federal Highway Administration (FHWA), proposes future construction of a new Minnesota River crossing of Trunk Highway (TH) 41 connecting TH 169 and US 212 in the vicinity of existing TH 41, within Scott and Carver Counties, Minnesota. The project is proposed, in part, to address regional congestion and public safety concerns during flooding, and improve the regional connection between US 169 and US 212. Construction is not currently in MnDOT's 20-year plan and may not be initiated for 20 or more years.

In order to identify a broad corridor for preservation so that communities can plan around it and designate it in land use plans, the project is being developed under a tiered NEPA/CWA Section 404 merger process. Tier I identifies a corridor for preservation. Tier 2 will reevaluate/reconfirm the Tier 1 Preferred Alternative corridor, and select a design for construction. Tier 2 will provide the detailed evaluation of direct, indirect and cumulative impacts, identify further avoidance/minimization measures, provide detailed mitigation measures, and detailed compensation mitigation plans that will be implemented during construction and/or operation of the TH 41 project.

EPA is a cooperating agency in the tiered NEPA/404 merger process for the TH 41

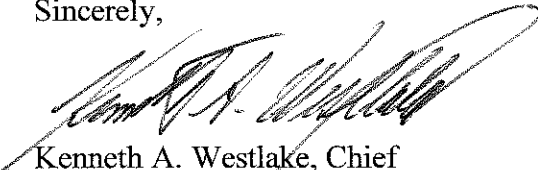
proposal. EPA concurred with the Tier 1 Purpose and Need, and Tier 1 Range of Alternatives for analysis in our letter dated May 9, 2013. In our May 27, 2014, letter, EPA concurred with the Modified Alternative C-2 as the Tier 1 Preferred Alternative for the TH 41 project. While Modified Alternative C-2 has several more wetland impacts (13.2 acres total) than Tier 1 Draft EIS Alternative C-2 (10.9 acres total) and impacts more acres of the Minnesota River Valley National Wildlife Refuge (22 acres total), it avoids direct impacts to the Athletic Park, reduces impacts to the Jackson Heights community, and avoids Seminary Fen.

The Tier 1 FEIS identifies Modified Alternative C-2 as the Tier 1 FEIS Preferred Alternative. EPA has no major concerns with the information provided in the Tier 1 FEIS for this project. EPA reserves its right to further review and comment on the TH 41 project during Tier 2 and the U.S. Army Corps of Engineers Clean Water Act Section 404 permitting process.

**Recommendation:** We recommend FHWA's Tier 1 Record of Decision (Tier 1 ROD) for this proposal include the U.S. Army Corps of Engineers' Special Public Notice (2006-02250-MMJ) Notice of Availability of the Trunk Highway 41 Tier 1 Final Environmental Impact Statement and associated Clean Water Act Section 404 review process, which was issued on December 8, 2014 and expires on January 7, 2015.

When finalized, EPA requests FHWA provide us with one hard copy and 2 DVDs of the Tier 1 ROD. If you have any questions, please contact Virginia Laszewski of my staff at (312) 886-7501.

Sincerely,



Kenneth A. Westlake, Chief  
NEPA Implementation Section  
Office of Enforcement and Compliance Assurance

cc: Tamera Cameron, Regulatory Branch, U.S. Army Corps of Engineers, 180 Fifth Street East, Suite 700, St. Paul, Minnesota 55101-1678  
Diane Langenbach, Project Manager, Minnesota Department of Transportation, Metro District, 1500 W. County Road B-2, Roseville, Minnesota 55113  
Gerry Shimek, Supervisory Refuge Specialist, U.S. Fish and Wildlife Service, Minnesota Valley National Wildlife Refuge, 3815 American Blvd. East, Bloomington, Minnesota 55425